

STATE OF INDIANA – COUNTY OF MADISON
IN THE CIRCUIT COURT

**Notice of Proposed Changes to Local Rules including Caseload Allocation Plan
July 1, 2011**

In accordance with Trial Rule 81 of the Indiana Rules of Court, the Madison Unified Circuit Courts hereby give notice to the bar and the public that the Courts propose to amend the existing local rules, including a proposed new caseload allocation at LR 48-AR 00-07. All new text is shown by underlining and deleted text is shown by ~~striketrough~~. Supreme Court approval is required for Local Rules concerning Trial Rule 81 and may not take effect until approved by the Supreme Court.

The time period for the bar and the public to comment will begin on **July 1, 2011**, and will close on **July 31, 2011**. The proposed amendments to the rules will be adopted, modified or rejected before August 5, 2011; and, the final version of the rules will be submitted to the Indiana Supreme Court for review and approval.

Persons with Internet access may view the proposed amended local rule at the following website:
<http://www.in.gov/judiciary/madison/>

Notice has been given to the public on the website of the Madison County Clerk and on the Indiana Judicial Website, and by furnishing a copy to the officers of the Madison County Bar Association. Comments may be made until July 31, **2011** to: Unified Circuit Court Administration, 16 E. 9th Street, Suite 417, Anderson, IN 46016.

These rule amendments will be effective on September 30, 2011.

Dennis D. Carroll, Judge
Circuit Court – Division 6

G. George Pancol, Judge
Circuit Court – Division 2

Thomas Newman, Jr., Judge
Circuit Court – Division 3

Rudolph R. Pyle III, Judge
Circuit Court – Division 1

David A. Happe, Judge
Circuit Court – Division 4

Thomas Clem, Judge
Circuit Court, Division 5

MADISON COUNTY COURTS OF RECORD

County of Madison, Indiana

Local Rules

Effective: ~~01/01/2011~~ 09/30/2011

50TH CIRCUIT JUDICIAL DISTRICT
State of Indiana

16 East 9th Street
Suite 417
Anderson, IN 46016
(765) 641-9503
(765) 641-9698 (Fax)

Table of Contents

Administrative Rules:

Page(s): State Rule:

<i>LR48-AR00-01</i>	<i>Court Closings</i>	<i>1</i>	
<i>LR48-AR00-02</i>	<i>Divisions of the Superior Courts</i>	<i>1</i>	
<i>LR48 AR00 02</i>	<i>Divisions of the Madison Circuit Court</i>	<i>1</i>	
<i>LR48 AR00 03</i>	<i>Establishment of Unified Courts and Chief Judge</i>	<i>1</i>	
<i>LR48 AR00 03</i>	<i>Administration of the Madison Circuit Court and Selection Of Chief Judge</i>	<i>1</i>	
<i>LR48-AR00-04</i>	<i>Court Administrator</i>	<i>2</i>	
<i>LR48-AR00-05</i>	<i>Jurisdiction of Divisions</i>	<i>2</i>	
<i>LR48-AR00-06</i>	<i>When Other Judges Preside</i>	<i>3</i>	
<i>LR48-AR1(E)-07</i>	<i>Caseload Plan</i>	<i>4</i>	<i>AR 1(E)</i>
<i>LR48-AR15-08</i>	<i>Court Reporter Services</i>	<i>5</i>	<i>AR 15</i>
<i>LR48-AR10-09</i>	<i>Pleading Requirements</i>	<i>9</i>	
<i>LR48-AR00-10</i>	<i>Bench Trial and Mediation</i>	<i>10</i>	
<i>LR48-AR00-11</i>	<i>Use of Regular Judge's Mechanically Stamped Signature</i>	<i>10</i>	
<i>LR48-AR00-12</i>	<i>Timekeeping and Compensation Policies and Procedures</i>	<i>11</i>	

Criminal Rules:

<i>LR48-CR2.2-13</i>	<i>Criminal Dockets (Assignment)</i>	<i>11</i>	<i>CR 2.2</i>
<i>LR48-CR2.2-13.5</i>	<i>Problem Solving Courts</i>	<i>12</i>	
<i>LR48-CR00-14</i>	<i>Bond Schedule</i>	<i>12</i>	

Jury Rules:

<i>LR48-JR02-15</i>	<i>Appointment of Jury Administrator</i>	<i>13</i>	<i>JR 02</i>
<i>LR48-JR04-16</i>	<i>Jury Panels</i>	<i>13</i>	<i>JR 04</i>

Family Law Rules:

<i>LR48-FL00-17</i>	<i>Financial Declarations/Support Work Sheets</i>	<i>14</i>	
<i>LR48-AR00-18</i>	<i>Children and Dissolution Proceedings</i>	<i>14</i>	

Trial Rules:

LR48-TR53-19	Office Staff, Referees, Master Commissioners, Senior Judges, and Magistrate	15	TR 53
LR48-TR79-20	Special Judge Selection in Civil and Juvenile Cases	16	TR 79
LR48-TR06-21	Automatic Enlargement of Time	17	TR 06
LR48-TR53-22	Continuances	17	TR53
LR48-TR26-23	Discovery Time Limits	18	TR 26
LR48-TR33-24	Limitation on Interrogatories	18	TR 33
LR48-TR73-25	Ex Parte Matters	19	TR 73
LR48-TR3.1-26	Entry and Withdrawal of Appearance	19	TR 3.1
LR48-TR40-27	Trial and Provisional Hearing Settings	20	TR 40
LR48-TR05-28	Title IV-D	21	TR 05
LR48-TR64-29	Writs of Body Attachment	21	TR 64
LR48-TR10-30	Pro Se Litigants (Form of Pleading)	22	TR 10
LR48-TR10-31	Orders/Decrees (Form of)	22	TR 10
LR48-TR 5(G)-32	Fax Filing	24	TR 5(G)
LR48-TR16-33	Pre-Trial Conference	24	TR 16
LR48-TR45-34	Subpoenas and Notice of Hearing	25	TR 45
LR48-TR05-35	Service on Attorney	25	TR 05
LR48-TR3.1-35.5	Duty to Update Service Address	25	TR3.1
LR48-TR4.11-36	Requirements for Service by Certified Mail	25	TR 4.11
LR48-TR41-37	Delinquent Lists	26	TR 41
LR48-TR67-38	Post Judgment Interest	26	

Probate Rules:

LR-PR00-38.5	Notice	27
LR-PR00-39	Filing of Pleadings	27
LR-PR00-40	Attendance of Proposed Fiduciaries	28
LR-PR00-41	Representation of Fiduciaries by Counsel	28
LR-PR00-42	Bond	28
LR-PR00-43	Inventory	29
LR-PR00-44	Real Estate	29
LR-PR00-45	Sale of Assets	30
LR-PR00-46	Accounting	30
LR-PR00-47	Fees of Attorney and Fiduciary	30-32
LR-PR00-48	Unsupervised Administration	32
LR-PR00-49	Guardianships	32
LR-PR00-50	Minor's Settlements	33
LR-PR00-51	Wrongful Death Estates	34
LR-PR00-52	Magistrates	34
<u>LR-PR00-52</u>	<u>Magistrate</u>	<u>34</u>

ADMINISTRATIVE RULES

LR48-AR00-01 COURT CLOSINGS

When the County Commissioners close the Government Center due to inclement weather or other reason, all Court Offices shall be closed unless specifically otherwise ordered by the presiding Judge.

LR48-AR00-02 DIVISIONS OF THE SUPERIOR MADISON CIRCUIT COURT

~~The Madison Superior Court shall consist of Divisions I, II and III, IV, and V~~

The Madison Circuit Court shall consist of divisions of the court and shall be known as Madison Circuit Court No. 1 (f/k/a the Madison Circuit Court); Madison Circuit Court No. 2 (f/k/a Madison Superior Court 2); Madison Circuit Court No. 3 (f/k/a Madison Superior Court No. 3); Madison Circuit Court No. 4 (f/k/a Madison Superior Court 4); Madison Circuit Court No. 5 (f/k/a Madison Superior Court 5); Madison Circuit Court No. 6 (f/k/a Madison Superior Court 1).

LR48-AR00-03 ESTABLISHMENT OF UNIFIED COURTS AND CHIEF JUDGE ADMINISTRATION OF THE MADISON CIRCUIT COURT AND SELECTION OF A CHIEF JUDGE

A. ~~In the interest of judicial efficiency, Superior Court Divisions I, II and III, IV, and V, and Circuit Court shall form the Unified Courts of Madison County, utilizing~~ To efficiently administer the Court, all divisions shall utilize a common budget, public defender services, probation services, and sharing and share other resources as deemed necessary. The Judges of the Courts divisions shall comprise the administrative board of the Unified Courts Court.

B. There shall be a Chief Judge of the ~~Unified Courts Court~~ Court who shall automatically be selected on the following rotation schedule:

Presiding Judge of ~~Superior Circuit Court I~~ Circuit Court 6 (beginning 1/1/98)

Presiding Judge of ~~Superior Circuit Court IV~~ Circuit Court 4

Presiding Judge of ~~Superior Circuit Court II~~ Circuit Court 2

Presiding Judge of ~~Superior Circuit Court V~~ Circuit Court 5

Presiding Judge of ~~Superior Circuit Court III~~ Circuit Court 3

Presiding Judge of ~~the Circuit Court~~ Circuit Court 1

Thereafter, the Chief Judge shall continue to be selected and serve pursuant to this schedule. The term of the Chief Judge shall be one year, beginning January 1 and ending on December 31 of year of service. In the event a designated Chief Judge is unavailable to serve as Chief Judge,

the previous year's Chief Judge will assume Chief Judge duties if the vacancy occurs before June 30. If the vacancy occurs subsequent to June 30, the Chief Judge for the subsequent year shall assume the duties of Chief Judge.

C. Each Division of the Court shall maintain its own chronological case summary (CCS), record of judgment and orders (RJO), and calendar.

D. The staff of each Court shall report to the presiding Judge of that Court and shall not be considered an employee of any other Court.

E. All actions affecting the six Courts shall require the consent of a majority of the Unified Court Judges.

LR48-AR00-04 COURT ADMINISTRATOR

A. The Presiding Judges of the ~~Unified Courts~~ Court shall appoint a Director of Court Administration who shall have such duties and responsibilities as are assigned by said Judges.

B. The presiding Judges shall appoint other Directors and Administrators as may be necessary to carry on the business of the Court. Employees of the various divisions shall be selected by said Directors with the advice and consent of the Judges.

LR48-AR00-05 JURISDICTION OF DIVISIONS

~~A. The Madison Superior Courts exercise exclusive juvenile jurisdiction and unlimited, co-extensive jurisdiction with the Madison Circuit Court in all other matters. Pursuant to the Court's enabling act, any action may be filed in the Madison Superior Court notwithstanding a statutory directive that certain special proceedings be filed in the Circuit Court. (See State ex re. Indiana Life v. Superior Court of Marion County, 399 N.E.2d 356).~~

B. A. Dockets for each division of the ~~Unified Courts~~ Court shall be assigned as follows:

Civil dockets	Divisions I, II and III, IV and V <u>1, 2, 3, 4, 5, and 6 of Superior Court and Circuit Court.</u>
Criminal dockets	Divisions I and III, IV and V <u>1, 3, 4, 5, and 6 of Superior Court and Circuit Court.</u>
Probate dockets	Divisions I and III <u>Divisions 1, 3, and 6 of Superior Court and Circuit Court.</u>
Juvenile dockets	Division II of Superior Court <u>Divisions 2 and 4.</u>

C. Civil cases may be filed in any appropriate division in accordance with the caseload plan for Madison County (see LR48-AR00-07). Division selection in criminal cases will be effectuated randomly by the Clerk of the Court, in accordance with LR48-CR2.2-13.

D. Requests for Trial De Novo filed in a ~~Superior~~ Circuit Court shall automatically be transferred by the Madison County Clerk to the Madison ~~County~~ Circuit Court, in the same manner as criminal cases are assigned, that is to say, by random selection.

LR48-AR00-06 WHEN OTHER JUDGES PRESIDE

Whenever the Judge who presides in any Court is absent or cannot, for any reason, hear any cause pending in such Court or issue any emergency order in connection therewith, any other Judge of a Court may preside in such division, and for such purpose shall be considered to be the Judge of that Court to transact business therein. ~~(see also IC 33-29-1-10)~~

LR48-AR00-07 CASELOAD PLAN

A. In compliance with Administrative Rule 1(E), the following chart reflects the directed jurisdictional caseload allocation for the Madison County Circuit Courts Court of Record. No part of this rule shall prohibit the transfer of individual cases to promote efficiency, fair distribution, or the timely resolution of cases.

CASELOAD ALLOCATION						
	Superior I Circuit 6	Superior II Circuit 2	Superior III Circuit 3	Circuit Circuit 1	Superior IV Circuit 4	Superior V Circuit 5
Case Type						
MR	33.33%		33.33%	33.33%		
FA	33.33%		33.33%	33.33%		
FB	33.33%		33.33%	33.33%		
FC	33.33%		33.33%	33.33%		
FD			20%	20%	40%	40%
CM					50%	50%
MC						
PL						
MF	33.33%		33.33%	33.33%		
CC	May be filed if over \$3,000				Under \$3,000	
CT						
SC					50%	50%
DR						
DR (Pro se)	33.33%		33.33%	33.33%		
RS						
MH				100%		
AD						
ES/EU						
GU						
TR						
PO	25%		25%		25%	25%
MI	20%		20%	20%	20%	20%
MI (IV-D)	25%	25%	25%	25%		
OV						
JC		100%				
JD		100%				
JS		100%				
JP					100%	
JM		100%				
JT		100%				

(Effective September 30, 2011)

LR48-AR15-08 COURT REPORTER SERVICES

A. Definitions. The following definitions shall apply under this local rule:

1. *Court Reporter*: a person who is specifically designated by a court to perform the official court reporting services for the court, including preparing a transcript of the record.
2. *Equipment*: all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording, storing, and transcribing electronic data.
3. *Work space*: that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
4. *Page*: the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure VII B.
5. *Recording*: the electronic, mechanical, stenographic, or other recording made as required by Indiana Rule of Trial Procedure 74.
6. *Regular hours worked*: those hours which the court is regularly scheduled to work during any given work week.
7. *Overtime hours worked*: those hours worked in excess of forty (40) hours per work week.
8. *Work week*: means a seven (7) consecutive day week that consistently begins and ends on the same day throughout the year.
9. *County indigent transcript*: a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.
10. *State Indigent transcript*: a transcript that is paid for from state funds and is

for the use on behalf of a litigant who has been declared indigent by a court.

11. *Expedited transcript*: a transcript that is required to be completed in three days or less.

B. Salaries and Per Page Fees.

1. Court Reporters shall be paid an annual salary for time spent working under the control, direction, and direct supervision of their supervising Judge during regular work hours or overtime hours. The supervising Judge shall enter into a written agreement with the court reporter which outlines the manner in which the court reporter is to be compensated for overtime hours.

2. The maximum per page fee a court reporter may charge for the preparation of a non-expedited transcript shall be \$4.00 per page. However, the Court may authorize up to \$5.00 per page for expedited transcripts.

3. A minimum fee up to \$35.00 per transcript is permissible.

4. Index and Table of Contents pages should be charged at the per page rate being charged for the rest of the transcript.

5. An additional labor charge equal to the court reporter hourly court salary will be charged for the time spent binding the transcript and the exhibit binders.

6. A Court Reporter shall not be compensated for transcripts prepared during regular working hours. Private transcripts shall not be prepared during regular working hours.

7. A reasonable charge for the office supplies required and utilized for the binding and electronic transmission of the Transcript, pursuant to Indiana Rules of Appellate Procedure 28 and 29, is permissible. The costs for these supplies should be determined pursuant to a Schedule of Transcript Supplies which should be established and published annually by the Judge or Judges of the county.

8. At separation of employment, the court reporter forfeits all future claim to income derived from requested copies of previously typed transcripts.

9. Upon payment for an indigent transcript, the court reporter shall transfer the original floppy disk (or other electronic media) containing the fully transcribed record to the custody of the court.

C. Private Practice.

1. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, workspace, and supplies, and the court agrees to the use of the court equipment for such purposes, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

- a. The reasonable market rate for the use of equipment, work space and supplies;
- b. The method by which records are to be kept for the use of equipment, work space and supplies, and
- c. The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.

2. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

D. Relevant Indiana Statutes and Trial Rules.

Pertinent Indiana Statutes and Indiana Rules of Court regarding the Unified Court policy regarding the transcription of court proceedings are as followings:

I.C. 33-5-33.1-8, Appointment of personnel. The court may appoint court reporters to transact the business of the court. The persons so appointed shall perform such duties as prescribed by the court.

I.C. 33-15-23-1, Appointment and duties of official reporters. ~~The Judge of each Superior Court shall appoint an official reporter.~~ The Judges of each division of the Circuit Court shall appoint an official reporter.

I.C. 33-15-23-5, Transcript of proceedings. Whenever ... such reporter shall be requested to do so (they) shall furnish to either party a transcript of all or any part of said proceedings required by (them) to be taken,... and it shall be (their) duty to furnish the same in ... typewriting ... and shall certify that it contains all the evidence given in the cause.

Trial Rule 74 (A), Court reports. The Judge may authorize or direct the court reporter or *any other responsible, competent person, in his discretion, to make a transcription from such recordings*, and the same shall be certified by the person making said transcription.

E. Court Transcription Policy.

1. Any person who is a court reporter or any other responsible person directed to prepare certified transcripts of court proceedings shall be administered a court reporter's oath before said person is entitled to prepare certified transcripts of proceedings.

2. Only Court employees are authorized to make certified transcriptions from recordings for the purpose of facilitating and expediting the trial of causes and appeals.

3. The court reporter or other designated person causing a matter to be recorded shall have the first right of refusal to prepare any necessary certified transcriptions from said recording.

a. If the person with the first right of refusal to prepare a certified transcript declines to prepare said transcript, then other competent persons in the court of said recording's origination shall have, on a rotating basis, the next right of refusal to prepare said certified transcript.

b. If no person in the originating court exercises their option to prepare said certified transcript, then the person who caused the matter to be recorded shall select from a list maintained by Court Administration another responsible and competent person employed by the ~~Courts~~ Court to prepare said certified transcript.

4. Court Administration shall be notified by transcript preparers of the beginning and completion of transcripts.

5. The person who prepares the certified transcript from recordings shall be the person who certifies the transcript as being complete and accurate.

6. All court reporters must use the same invoice for submission of payment (format on file in court administration).

7. The invoice must be accompanied by a copy of the transcript (to verify page numbers) and the minute entry approving the transcript.

8. The transcript shall be certified by the Court Administrator and signed by the judge of the court of origination unless the originating judge does not require the transcript to be first approved.

9. The payroll administrator will make a docket entry indicating the court reporter, number of pages, per page price, and total amount due once the invoice is submitted to Court Administration.

LR48-AR10-09 PLEADING REQUIREMENTS

A. Filings shall comply fully with the provisions of Trial Rule 77 and Administrative Rule 9 regarding confidentiality .

Commentary: It is not the intention of this rule for all pleadings to be copied to green paper prior to filing. Only confidential information should be listed separately on green paper at filing. A recommended form that conforms with Administrative Rule 9 requirements is on file in Court Administration.

B. Number of Copies

Parties shall provide the Court with a sufficient number of pleadings and proposed orders as provided by Exhibit A, attached and made a part hereof. Failure to provide sufficient copies will result in a Chronological Case Summary entry being made showing pleadings filed but with no action taken nor distribution made. When pleadings or proposed orders are filed by mail or left with the court for filing, a self-addressed, stamped envelope shall be included for return of documents to the attorney.

C. Signature on Pleadings

All pleadings to be signed by an attorney shall contain an original written signature of the attorney, printed name, attorney number, firm name (if applicable), mailing address, telephone number, and a designation of the party for whom the attorney appears.

D. Distribution Lists

All documents for which distribution is requested shall include a distribution list at the end of document. Distribution may not be made to parties not included on the distribution list.

E. Certificates of Service

Certificates of Service which are required by the trial rules shall set out with specificity the names of the lawyers or litigants who have been served. The generic and generalized

language “served upon counsel of record” shall not be acceptable compliance with the trial rule.

F. Two-Sided Pleadings

Two-sided pleadings, motions, orders or decrees will not be accepted with the exception of court-approved forms relating to small claims matters.

G. Caption Requirement

In any matter being heard by special judge, magistrate, senior judge, or other judicial officer who is not the regular judge, the judicial officer’s name shall appear in the caption, and below the cause number as follows:

“Before Hon. _____”
(Title – Special Judge, etc...)

H. Adequate Notice to Court

A copy of any pleading or motion filed less than five days before a scheduled hearing shall be served personally upon the presiding Judge of the case.

LR48-AR00-10 BENCH TRIAL AND MEDIATION

All bench trials expected to last a full day or more shall be referred to mediation unless for good cause shown.

LR48-AR00-11 USE OF REGULAR JUDGE’S MECHANICALLY STAMPED SIGNATURE

A. The regular Judge’s mechanically stamped signature may be utilized by Court staff and appointed judicial officers designated by the regular judge.

B. Such use shall include, but not be limited to: Notices of Hearing, Orders to Appear, Travel permits when approved by a probation officer, Orders for continuance of proceedings, and other Administrative Orders, following the Judge’s oral or dictated directive to do so. Court staff or appointed judicial officers utilizing a mechanically stamped signature must place their initials next to the stamped signature on the original document.

C. Such use shall include the countersignature of the regular Judge, required on any action taken by a Magistrate, regular Court Commissioner, IV-D Commissioner or Referee, providing the original signature of the Magistrate, regular Court Commissioner, IV-D Commissioner or Referee appears on the original of the instrument or document.

D. The Senior Court Reporter of each Court shall maintain a list of those staff members and appointed judicial officers having use of a mechanically stamped signature device.

LR48-AR00-12 TIMEKEEPING AND COMPENSATION POLICIES AND PROCEDURES

The Courts of Madison County shall adhere to and follow the "Ordinance #2001-BC-0-14" adopted by the Madison County Board of Commissioners on October 16, 2001 regarding timekeeping and compensation policies and procedures to the extent that this, or any other county personnel policies or procedures, are not inconsistent with any specific rules adopted by the Judiciary.

CRIMINAL RULES

LR48-CR2.2-13: CRIMINAL DOCKETS (ASSIGNMENT)

SECTION I.

All felonies and misdemeanors filed in the Madison ~~County~~ Circuit Courts of Record Court shall be assigned and docketed in accordance with this Rule.

Charges shall be filed and assigned pursuant to Section II, if applicable. If Section II is not applicable, charges shall be filed and assigned in accordance with Section III.

Cases with multiple defendants or with co-defendants shall be considered one case for filing purposes and shall be assigned to a single court, although each defendant may be given a separate cause number.

SECTION II.

If jurisdiction exists in said Court, new felony and misdemeanor charges shall be filed in the Court where other charges are pending against the defendant or where the defendant is on probation or otherwise under supervision.

SECTION III.

Capital cases, life without parole cases, Class A felonies, Class B felonies and Class C felonies shall be randomly filed in ~~Circuit Court~~ Circuit Court 1, ~~Superior Court I~~ Circuit Court 6, and ~~Superior Court III~~ Circuit Court 3.

Class D felonies and misdemeanors shall be randomly filed in ~~Superior~~ Circuit Court, Division IV 4 (40%); ~~Superior~~ Circuit Court, Division V 5 (40%); and Circuit Court 3 (20%).

SECTION IV.

When a case requires a change of Judge, the Clerk shall randomly select a new Judge from the remaining judges exercising comparable jurisdiction. The Clerk shall so notify the new Judge of the appointment as Special Judge. If a selected Special Judge is unable to accept jurisdiction due to conflict of interest, or the Special Judge is later disqualified, the Clerk shall select a successor Special Judge at random from the remaining Judges of the Circuit and Superior Courts Court exercising criminal jurisdiction.

LR48-CR2.2-13.5 PROBLEM SOLVING COURTS

~~The following problem solving courts may be established and administered by the Madison County Unified Court Judges: Drug Court, Mental Health Court, Re-entry Court, Family Court, and Teen Court.~~

~~—The determination as to which Unified Court Judge shall be assigned to each problem solving court shall be made by a majority vote of the Unified Court Judges.~~

~~—The problem solving court judge shall develop policies and procedures for the court to which the judge is assigned. The policies and procedures of the problem solving court shall be submitted to the Unified Court Judges for approval.~~

Effective January 1, 2012, the Madison Circuit Court shall establish and administer a single Problem Solving Court with a single presiding judge. The single Problem Solving Court replaces the current Mental Health Court, Drug Court, and Re-Entry Court and shall continue to operate under guidelines and certifications of the Indiana Supreme Court through the agency of the Indiana Judicial Center. Policies, Procedures and Personnel for the Problem Solving Court shall be subject to supervision by the presiding judge of the Problem Solving Court, subject to advice and approval by a majority of the Circuit Court judges.

The presiding judge appointment shall be for a period of three (3) years and rotate among the judges with criminal court jurisdiction. The first presiding judge shall be the judge shall be the judge of Circuit Court, Division 4. Thereafter, the appointments shall continue on the following schedule: Circuit Court, Division 1; Circuit Court, Division 5; Circuit Court, Division 6; and Circuit Court, Division 3. Should any judge decline an appointment, the next judge on the schedule shall be appointed to serve. If a presiding judge resigns or is unable to continue for any reason, a majority of the Circuit Court judges will select one of their colleagues to fill the unexpired term.

The Circuit Court may also establish and administer additional Problem Solving Courts, such as Family Court and Teen Court, as the need arises. The presiding Juvenile Judge shall establish rules for the operation of said courts and shall be the presiding Judge subject to the approval of the majority of the Judges.

LR48-CR00-14 FELONY BOND SCHEDULE

A. Unless otherwise ordered by a court, bail on felony charges shall be as follows:

<u>Felony Class</u>	<u>Amount</u>
Murder (35-42-1-1)	Non-bondable
A Felony	\$35,000.00
B Felony	\$20,000.00
C Felony	\$10,000.00
D Felony	\$ 5,000.00

<u>Misdemeanors</u>	<u>Amount</u>
<u>All Classes</u>	<u>\$3,000.00 maximum</u>

B. If Defendant's residence (or usual place of abode) is within the State of Indiana, but outside Madison or its contiguous Counties, bond shall be doubled.

C. If Defendant's residence (or usual place of abode) is outside the State of Indiana, bond shall be tripled.

D. If defendant, at the time of arrest, is on parole or probation, or is free on bail awaiting trial on other charges, he shall not be admitted to bail per this schedule, but shall be brought before a judge or ~~criminal~~ magistrate of the County on the next regular day of Court who shall set bail or order other disposition. (The presiding judge, if available, of the Division in which charges have been filed shall determine bail.)

E. A detainee-defendant who posts bond pursuant to the Felony Bond Schedule for crimes listed as "offenses against the person" under IC 35-42 shall be subject to a No Contact Order in favor of the alleged victim.

F. A detainee-defendant arrested for felony battery or invasion of privacy shall not be afforded access to the felony bond schedule. The defendant shall be held pending review and bond setting by a judicial officer.

JURY RULES

LR48-JR02-15 APPOINTMENT OF JURY ADMINISTRATOR

Pursuant to Indiana Jury Rules, the position of ~~Unified~~ Circuit Court Jury Administrator is created and shall be selected by majority vote of the ~~Madison County~~ ~~Unified~~ Circuit Court Judges, who shall assign to said administrator such duties as they may designate from time to time, together with those prescribed by the Indiana Jury Rules.

LR48-JR04-16 JURY PANELS

The panel of potential jurors shall be derived from the Madison County portion of the Statewide Master Jury List reflecting the combined records of Bureau of Motor Vehicles and Department of Revenue or such additional records as may be designated.

FAMILY LAW RULES

LR48-FL00-17 FINANCIAL DECLARATIONS/SUPPORT WORK SHEETS

Financial Declarations on forms adopted by the Court and Indiana Child Support worksheets shall be completed in full, dated and filed prior to trial in all contested matters involving child support or disposition of assets. Financial Declarations, with current pay stub attached, shall be filed with the Court two (2) days before any preliminary or final hearing. Child support worksheets shall be filed with the Court on the hearing date. Absent objection, the financial declaration shall be considered as received in evidence subject to cross-examination. Direct examination on matters in the financial declaration shall be confined to unusual items or factors requiring explanation or correction.

LR48-AR00-18 CHILDREN AND DISSOLUTION PROCEEDINGS

- A. In all dissolution and separation actions where there are minor children of the marriage, the Petitioner and Respondent shall separately attend a dissolution education workshop approved by the court. Seminars must be completed within thirty (30) days after a petition for separation or dissolution is filed.
- B. Children over the age of 6 and under the age of 17 shall attend the court approved dissolution education program for minor children.
- C. Seminar scheduling shall be arranged with the Office of Court Administration (phone 641-9503), Room 417, Courthouse, Anderson, Indiana. Each party shall pay a fee of twenty five dollars (\$25.00) for the dissolution education seminar. The parties shall equally divide the cost of ten dollars (\$10.00) per child (not to exceed twenty dollars (\$20.00) per family) for the dissolution education seminar for children. Seminar fees may be deferred upon a showing of indigence. The Clerk shall maintain a trust account for the collection of these fees and said fees shall be disbursed by Court order.
- D. The Clerk shall bring this rule to the attention of all dissolution and separation petitioners and shall collect the petitioner's fee at the time of filing. The respondent's fee is due at the time of scheduling. The Clerk shall cause a copy of the rule to accompany the summons for service upon respondents.

E. Failure to comply with this rule may be considered civil contempt, and may delay the issuance of a final decree.

F. Upon its own motion or upon the motion of a party, the Court may require compliance in all cases involving the custody of children or in redocketed cases.

TRIAL RULES

LR48-TR53-19 OFFICE STAFF, REFEREES, MASTER COMMISSIONERS, SENIOR JUDGES, AND MAGISTRATE

A. Each presiding Judge shall appoint appropriate office staff pursuant to statute. If a Judge shall appoint a Commissioner, Referee or Master Commissioner, then said Judge shall define said responsibility of said appointee. A Commissioner, Referee or Master Commissioner shall not have jurisdiction over or be allowed to conduct hearings of any type in matters filed in divisions of ~~a~~ the Court in which they are not employed.

COURT COMMISSIONERS

B. Preliminary matters may be scheduled on a Commissioner's calendar. There shall be no automatic right to have preliminary matters set on the calendar of the presiding Judge or removed from the Commissioner's calendar to the Judge's calendar.

SENIOR JUDGES

C. Senior Judges who are assigned to a court shall serve the court as deemed appropriate by the Court's presiding Judge. Said service may include assignment to specific cases, to specialized cases or to all cases placed on the Senior Judge's calendar (See also Supreme Court Administrative Rule 5).

MAGISTRATE

D. Pursuant to I.C. ~~33-33-48-7.5~~ 23-5, the Judges of the Madison ~~Superior~~ Circuit Court shall appoint a full-time, state-paid Magistrate and assign to said Magistrate such duties as they may designate from time to time.

LR48-TR79-20 SPECIAL JUDGE SELECTION IN CIVIL AND JUVENILE CASES

A. A copy of each pleading or each paper filed with the Court after a Special Judge has qualified shall be mailed or delivered by counsel to the office of that Special Judge with service to that Special Judge indicated on the certificate of service.

B. Pursuant to Trial Rule 79, should all remedies listed under 79 (D), (E), and (F) fail to produce a special judge then the appointment of an eligible special judge shall be made pursuant to local rule, as follows, in accordance with 79 (H)

~~C. The~~ The Madison County Clerk, on a rotating basis in consecutive order, shall ~~select~~ appoint the eligible judge in Madison County as follows:

For all domestic relations or paternity cases:

Presiding Judge of ~~the Madison~~ Circuit Court 1

Presiding Judge Judges of ~~Superior Court, Division I~~ Circuit Court 2 and 4

Presiding Judge of ~~Superior Court, Division II~~ Circuit Court 3

Presiding Judge of ~~Superior Court, Division III~~ Circuit Court 6

For all other case types:

Presiding Judge of the ~~Madison~~ Circuit Court 1

Presiding Judge of ~~Superior Court, Division I~~ Circuit Court 2

Presiding Judge of ~~Superior Court, Division II~~ Circuit Court 3

Presiding Judge of ~~Superior Court, Division III~~ Circuit Court 4

Presiding Judge of ~~Superior Court, Division IV~~ Circuit Court 5

Presiding Judge of ~~Superior Court, Division V~~ Circuit Court 6

~~D. C. Should none of the above referenced judges accept jurisdiction due to disqualification pursuant to the Code of Judicial Conduct, ineligibility for service under this rule, or excused from service by the Indiana Supreme Court, then the appointment shall be made at random by the Clerk from eligible judges within Administrative District 6 (Blackford, Delaware, Grant, Henry, Jay, and Randolph counties).~~

Should none of the above referenced judges accept jurisdiction due to disqualification pursuant to the Code of Judicial Conduct, ineligibility for service under this rule-Trial Rule 79 or excused from service by the Indiana Supreme Court, then the appointment shall be made at random by the Clerk from eligible Judges within Administrative District 14 (Grant County Circuit Court, Grant County Superior Court Divisions 1, 2, 3.

~~E. D. In the event that no judicial officer within Administrative District 6~~ In the event that no judicial officer within Administrative District 14 is eligible to serve as special judge or the particular circumstances of the case warrant selection of a special judge by the Indiana Supreme Court, the judge of the court in which the case is pending shall certify the matter to the Indiana Supreme Court for appointment of a special judge.

LR48-TR06-21 AUTOMATIC ENLARGEMENT OF TIME

An initial written motion for enlargement of time, pursuant to Trial Rule 6(B)(1), to respond to a claim shall be automatically allowed for an additional thirty (30) days from the original due date without written order of the Court. Any motion filed pursuant to this rule shall state the date when such response is due and the date to which time is enlarged. Said motion must be filed on or before the original due date or this rule shall not apply. No proposed order should be submitted. An enlargement in excess of thirty (30) days will be permitted by the Court only upon a showing of necessity. This rule does not apply to matters on the small claims docket.

LR48-TR53-22 CONTINUANCES

A. Unless made in open Court, motions for continuance shall be in writing and shall include the following information:

1. The date and time of the hearing or trial for which a continuance is being sought.
2. The date and time opposing counsel (or pro se opponent) was advised that a continuance would be requested.
3. Whether opposing counsel (or party) agrees with or objects to said request.
4. The reason a continuance is necessary and an estimate of the amount of time needed to elapse before the matter can be rescheduled.
5. A good-faith estimate of the time needed for such hearing or trial if rescheduled.
6. A proposed date and time available on the Court's calendar if all parties agree upon a new hearing date.
7. If the continuance is requested because of conflicts on counsel's trial calendar: the conflicting cause caption, cause number, current status of the conflicting cause, and the date said conflicting cause was set for hearing.

B. No motions for continuance will be considered unless filed at least five (5) days before a bench trial or hearing, unless good cause is shown, and at least ten (10) days before a jury trial, unless good cause is shown. No case shall be continued or removed from the trial calendar without approval of the court.

C. The continuance of a preliminary hearing is not favored and will NOT be granted when requested less than five (5) days before the hearing. A motion for change of venue from the Judge or county shall NOT cause a preliminary motion hearing to be continued where immediate or emergency relief may be required.

D. All motions for continuances shall be accompanied by a proposed order containing a space for the Court to set a new date for the hearing or trial, or at the Court's election, directing the parties to contact the bailiff for a new trial date.

E. When an attorney enters an appearance, it is the attorney's responsibility to review the file and become aware of all previously scheduled hearing dates. Entry of an appearance just prior to a hearing will not necessarily constitute a reason for a continuance.

F. Unless otherwise indicated in the motion, a signature by an attorney on the request for continuance is certification by that attorney that their client has been notified of the request and of the reason for which the continuance is sought. If the client was not notified, the attorney shall state the specific reason(s) notice could not be given, and that the client will not be prejudiced by the continuance.

LR48-TR26-23 DISCOVERY TIME LIMITS

A. Discovery shall not be permitted in small claims actions, except by leave of Court.

B. In all other cases, discovery shall be completed within six months after the case is at issue, unless otherwise ordered by the Court. For good cause shown, time may be extended for completion of discovery.

C. Pursuant to Indiana Rules of Court, routine discovery shall not be accepted for filing except by leave of Court. However, the Court will accept for filing a one-page Notice of Service of Discovery or Notice of Compliance.

LR48-TR33-24 LIMITATION ON INTERROGATORIES

Interrogatories shall be limited to a total of fifty (50), including subparts, and be used solely for the purpose of discovery and shall NOT be used as a substitute for the taking of a deposition. For good cause shown, additional interrogatories may be permitted.

LR48-TR73-25 EX PARTE MATTERS

A. All motions for which an ex parte order is requested or anticipated shall be filed with an appropriate proposed order for signature by the Court. No ex parte motion shall be considered unless the motion is verified by the petitioner. Unless waived by the Court, there shall be a recorded evidentiary hearing showing corroboration of the motion's allegations.

B. An ex parte order shall not be signed unless opposing counsel or the opposing party(s) have been notified, or unless an affidavit has been filed from petitioner's attorney which indicates attempts to notify opposing counsel or opposing party(s), or reasons supporting the claim that notice should not be required. See *Matter of Anonymous* 729 E.2d 566 (Ind.2000)

C. This rule shall not be triggered by ex parte matters that are merely procedural (e.g., compelling discovery, extensions of time, orders to appear). Further, a domestic relations mutual restraining order sought at the time a dissolution action is filed, which order prohibits harassment, violence, and dissipation of assets or which continues the status quo pending hearing, shall not trigger the requirement of this rule.

D. No ex parte relief shall be granted unless specific facts are presented, either at a hearing or by affidavit, that immediate and irreparable injury or loss or damage will result before an adverse party may be heard in opposition.

E. No ex parte protective order (PO) shall cancel or restrict an existing Order on child visitation or custody issued by a Court of competent jurisdiction unless the protective order specifically and clearly so directs and references the existing Order by cause number.

F. If ex parte relief is granted, a hearing shall be set and held within 10 days of the granting of such ex parte relief, and the adverse party shall be notified of said hearing. By seeking ex parte relief, a party waives any objection to said hearing being assigned to any available judicial officer.

LR48-TR3.1-26 ENTRY AND WITHDRAWAL OF APPEARANCE

A. Upon entering a cause, an attorney or law firm shall file a notice of appearance with the Court. In addition to the firm name, address, and phone number, said appearance shall include the individual name and attorney number of the lawyer who is to be identified on the Chronological Case Summary as principal counsel for purposes of notice or other Court Communication.

- B. An attorney's appearance for a party will be withdrawn upon the filing of a motion, if:
1. Another attorney simultaneously appears for the party;
 2. The attorney provides satisfactory evidence that the party has discharged the attorney;
or
 3. The party acquiesces to the withdrawal.
- C. In all other circumstances, an attorney seeking permission to withdraw an appearance shall file a written motion stating justification for the withdrawal. The attorney shall give the party 21 days' written notice of the attorney's intention to seek permission to withdraw. This notice shall (1) inform the party that failure to secure new counsel may result in dismissal of the party's case or in entry of a judgment or ruling against the party, (2) set forth the date of any scheduled hearing or trial, and (3) include any other pertinent information.
- D. Except for good cause shown, a withdrawal of appearance shall not be granted within 5 days of trial commencement.

LR48-TR40-27 TRIAL AND PROVISIONAL HEARING SETTINGS

- A. Causes shall be calendared in consultation with opposing counsel and the Court. In the event counsel are unable to agree upon a trial setting, the moving party may file a motion for trial setting with the Court. A proposed CCS entry shall be submitted by moving counsel, or party, confirming the hearing date, time, and hearing officer.
- B. All motions for trial setting shall include:
1. a statement indicating whether the matter is to be tried by jury or by the Court;
 2. a statement indicating the estimated time required for trial;
 3. a statement indicating efforts to set the cause by agreement have been unsuccessful.
- C. Except by special leave of Court, provisional hearings shall be scheduled not less than fifteen (15) days after the filing of the motion.
- D. Service of Process – Re-Docketed Cases
- Whenever a domestic relations case or similar case (DR, JP, GU, or MI) is re-docketed after more than 8 months of inactivity, the party initiating the re-docketed activity (such as a Petition to Modify) shall promptly serve new process or a notice of hearing upon responding parties in accordance with TR 4.

LR48-TR05-28 TITLE IV-D

All pleadings, motions and other documents related to Title IV-D proceedings shall be filed with the Clerk of the Court, regardless of the Court of origin, and then taken to the court administrator's office. When the Title IV-D Prosecutor's Office intervenes in an existing cause of action, the Office shall file a written appearance with a Title IV-D Court Reporter.

LR48-TR64-29 Writs of Body Attachment

A. Requests for Body Attachments – An application for a writ of body attachment must be sworn or verified and include the following:

1. An allegation that the target of the body attachment failed to appear at a hearing to show cause why the target should not be held in contempt for failure to appear at a prior hearing,
2. An allegation that the target of the body attachment received service of the order to show cause, including the date and manner of service,
3. The amount of the judgment still owing at the time the body attachment is requested, and
4. Only if service of the order to appear at the show cause hearing was not by personal service, and the service address was neither an address where the party has previously received good service in this case nor an address provided to the Court by the party, an allegation explaining how the service address is known to be the party's actual address.

The party seeking the body attachment must also complete a civil warrant information sheet on forms provided by the Clerk before a Writ of Body Attachment can be issued.

B. Expiration of Writs of Body Attachment - A writ of body attachment expires 180 days after its issuance. An expired writ may be reissued upon written request referencing and reaffirming the allegations contained in the original request, accompanied by an updated warrant information sheet.

C. Proceedings Supplemental Stop While Body Attachment Outstanding – After the issuance of a body attachment for a party against whom a judgment has been rendered, no further hearings or other collection proceedings shall be scheduled for that party, nor shall any order garnishing wages issue until such time as the writ of body attachment is withdrawn, executed, or expires. This rule shall not prevent either attachments of the party's assets or third-party discovery related to the party's income or assets.

LR48-TR10-30 PRO SE LITIGANTS (FORM OF PLEADING)

No pleading, motion, or proposed CCS entry, shall be accepted for filing from a pro se party unless the litigant's current address and phone number and the current address and phone number of the opposing party appear on the pleading.

LR48-TR10-31 ORDERS/DECREEES (FORM OF)

A. The second and subsequent pages of all proposed orders shall contain an abbreviated case caption including the complete cause number.

B. Proposed orders and decrees shall be legible, dignified and appropriate to the cause. Mimeographed or printed orders will be accepted for filing only if legible, clearly understandable, and void of strike overs and erasures. The appropriate Judge's name shall be placed under the appropriate signature line. The name of the person preparing the document shall appear on the order or decree. In the event an order or decree is submitted for approval of the court, the name of the preparer shall not appear on the order or decree.

C. A proposed judgment or decree shall not be filed until such time the Court may grant the judgment or decree. Proposed divorce decrees shall not be submitted at the time the petition for dissolution is filed nor shall adoption decrees, garnishment orders, summary judgments or similar orders be submitted to the Court to be held in the Clerk's file for later use.

D. Whenever the Court directs counsel to submit proposed findings and conclusions, or a proposed decree or memorandum order, in addition to filing a hard copy of said submission to the clerk, counsel shall submit a copy of said submission directly to the Court on floppy disk (or other approved electronic media) in Microsoft Word format, or as an email attachment in Word format to the court reporter of the Court.

E. Proposed judgments or decrees submitted to the Court must be accompanied by a proposed CCS entry of six lines or less.

DECREEES AND ORDERS SIGNED BY NON-REGULAR JUDGES

F. All proposed orders or decrees filed by counsel following a hearing before the Magistrate, Commissioner, or Referee shall include the following language:

“This matter comes before the Magistrate/Commissioner, etc... (name) for hearing . . .” At the end of the decree or order, the following language should appear, followed by a line for the Magistrate/Commissioner’s, etc... signature “Recommended for Approval”. The following entry should appear after the Hearing Officer’s signature: “COMES NOW THE COURT AND ENTERS JUDGMENT ON THE COMMISSIONER’S FINDINGS AND RECOMMENDATIONS.”

/s/ _____
Judge

Commentary: This rule does not apply to Senior Judges, Temporary Judges, or Pro tems.

G. Notwithstanding the above, timely objections filed pursuant to Trial Rule 53(E)(2) will be given due consideration by the presiding Judge.

H. All Judgments or Decrees for the foreclosure of a Real Estate Mortgage shall provide (and if inadvertently omitted therefrom shall be deemed to provide) as follows:

1. Counsel for the Mortgagee shall submit a form of Sheriff’s Deed, with appropriate blanks for the name and address (for purpose of real estate tax billings) of the Purchaser to be filled in by the Sheriff (or his or her Deputy) immediately after the sale;
2. That the Sheriff shall include as part of the costs of the Sale the recording and transfer fees for the recording of the Sheriff’s Deed.
3. That the Sheriff shall cause the Sheriff’s Deed to be promptly recorded after the completion of the Sheriff’s Sale.
4. A copy of the Sheriff’s return and the Sheriff’s Deed shall be provided to the respective court’s filing clerk for filing in the Court’s case file.

LR48-TR 5(G)-32 FAX FILING

A. A lawsuit or other original action may not be initiated by FAX. However, the Madison County Clerk shall accept subsequent pleadings, not exceeding ten (10) pages (including a cover page), during regular business hours and shall promptly file stamp and transmit said documents to the designated Court. The Clerk may assess a reasonable fee for accepting and processing FAX filings.

B. Upon receipt of the FAX, the Court shall show the pleading filed. The original pleading and sufficient copies to effectuate distribution shall be mailed to the Court. The original pleading shall include a cover sheet or letter advising the Court that the attached documents are the originals of pleadings previously filed with the Court by FAX transmission.

C. Any pleadings faxed to the Court shall be contemporaneously faxed, or otherwise promptly delivered, to the opposing party. The certificate of service shall stipulate the method of notification.

LR48-TR16-33 PRE-TRIAL CONFERENCE

A. All trials which are scheduled for a full day or more on the trial calendar shall be docketed by counsel for pre-trial conference before the Court at least ten (10) days before the date of trial. Counsel should review the requirements of Trial Rule 16 in anticipation of the pre-trial conference.

B. In small claim matters, all cases, except suits for possession of real estate, shall first be set for an informal trial where issues may be identified for purposes of a later formal trial, or where evidence may be heard and the case decided.

LR48-TR45-34 SUBPOENAS AND NOTICE OF HEARING

- A. Except in an emergency, a subpoena or notice of hearing will not be served by the Bailiff unless the same has been filed four (4) working days prior to a scheduled hearing. All subpoenas shall state a time and date calculated to minimize unnecessary delay and inconvenience to prospective witnesses.
- B. A copy of every subpoena issued by any party shall be promptly filed with the Court and noted on the Chronological Case Summary. The Clerk shall maintain a copy of the subpoena in the permanent case file.
- C. The failure to notify a subpoenaed witness that a cause has been continued or settled may result in an assessment of mileage and costs against counsel responsible for the failure.

LR48-TR05-35 SERVICE ON ATTORNEY (CHRONOLOGICAL CASE SUMMARY)

Copies of a Chronological Case Summary deposited in the Court mail box in respective attorneys' slots shall be considered notice of said Chronological Case Summary entries. Attorneys may use said mail boxes to facilitate "certificate of service" and in such case shall indicate on the served document that service was so effected.

Commentary: Service to opposing counsel by assigned court mailboxes is appropriate only in fresh cases. If cases have become stale, then traditional efforts at service should be employed.

LR48-TR3.1-35.5 DUTY TO UPDATE SERVICE ADDRESS

After a party has initiated a lawsuit, been served process, intervened or otherwise appeared as a party to an action, that party has an ongoing obligation to keep the Court and other parties advised of any change in that party's residential address or other address provided by law as appropriate for service of process. This obligation continues until such time as that party is dismissed from the action, the litigation is concluded without a judgment against that party, or until any judgment entered against the party is satisfied or released.

LR48-TR4.11-36 REQUIREMENTS FOR SERVICE BY CERTIFIED MAIL

For service by certified mail, the attorney, or litigant pro se, shall provide a typed certified mail card and envelope for each litigant.

LR48-TR41-37 DELINQUENT LISTS

- A. Any civil case pending for more than six months may be placed upon a delinquent list pursuant to Trial Rule 41(E). Any case so listed may, after 45 days, be dismissed at the cost of the filing party, except for good cause shown. Any case so dismissed may be deemed dismissed with prejudice as to all parties, unless otherwise ordered.
- B. Any probate matter in which no filing has been made for more than one year may be placed upon a delinquent list. If no significant action is taken within 45 days thereafter, the Court may require the personal representative, and/or counsel to show cause why the Court should not impose an appropriate sanction.
- C. Guardianships shall not be placed upon a delinquent list within two years after the issuance of letters of guardianship, the filing of an inventory, or the filing of a current account.

LR48-TR67-38 POST-JUDGMENT INTEREST

PAYMENT OF MONEY JUDGMENTS

- (a) If the court orders a judgment debtor to make all payments through the Clerk's office and the judgment creditor does not in fact accept any payments toward a money judgment directly from the payor, then post-judgment interest will be automatically calculated by the Clerk's office and added to the amount due under the judgment without further action by the judgment creditor.
- (b) If a judgment creditor accepts payments in satisfaction of a money judgment directly from the payor, as opposed to payment being made through the Clerk's office, then post-judgment interest shall not be amended to existing judgments or otherwise added to the calculated amount due until such time as the original judgment amount and costs have been paid and the judgment creditor then submits to the Clerk a statement of post-judgment interest due.

(Effective January 1, 2011)

MADISON COUNTY LOCAL PROBATE RULES

LR48-PR00-RULE 38.5 - NOTICE

Section I Whenever notice by publication and/or written notice by U.S. Mail is required to be given, the attorney shall prepare such notice and shall ensure that such notice is properly published and/or served by mail. In all respects, the notice shall comply with all statutory requirements. It shall be the attorney's responsibility to ascertain and provide adequate proof thereof regarding whether notice was properly served prior to bringing a matter to the Court.

Section II Copies of petitions or motions shall be sent with all notices where the hearing involved arises from the matters contained in the petition or motion.

Section III Whenever any estate or guardianship account (including a final account in a supervised estate) is set for hearing, copies of the account must be served with the notice of hearing.

Section IV Notice of the opening of an estate shall be sent by First Class United States Mail to all reasonably ascertainable creditors; however, the use of "certified mail, return receipt requested," to serve such notice is recommended.

Section V Notice of the hearing to be held on a Petition to determine an estate insolvent may be served on all interested parties, at the discretion of the Court.

LR48-PR00-RULE 39 - FILING OF PLEADINGS

Section I When pleadings are filed by mail or left with the Court for filing, a self-addressed, stamped envelope shall be included for return of documents to the attorney, unless Courthouse mail is available.

Section II All parties are required to prepare orders for all proceedings except when expressly directed otherwise by the Court.

Section III Upon the opening of an estate or guardianship, the Clerk shall provide a copy of the Court's instructions to all personal representatives and guardians.

Section IV The Instructions to the Personal Representative or Guardian, executed by the fiduciary, must be filed with the Court within 10 days of the issuance of the Letters.

Section V The affidavit of compliance with the notice provisions directed to creditors in an estate proceeding shall be timely filed with the Clerk of the Court.

LR48-PR00-RULE 40 - ATTENDANCE OF PROPOSED FIDUCIARIES

Section I All proposed Pro Se personal representatives and guardians who are residents of Indiana shall appear before the Court to qualify.

Section II All personal representatives or guardians are under a continuing order of the Court to personally advise the Court and the attorney of record, in writing, as to any change of any required information such as name, address, or telephone number.

LR48-PR00-Rule41 - REPRESENTATION OF FIDUCIARIES BY COUNSEL

Section I No personal representative or guardian of an estate may proceed without counsel, without court approval.

LR48-PR00-RULE 42 - BOND

Section I If a bond is required in an estate or guardianship, the fiduciary, prior to the issuance of letters, shall file a corporate surety bond in an amount determined by the Court after considering the following factors: (a) the value of the personal property to be administered; (b) the probable value of annual rents and profits of all property of the estate; (c) the rights of creditors, taxing authorities and devisees.

Section II No bond shall be required in any supervised estate or guardianship in which a corporate banking fiduciary qualified by law to serve as such is either the fiduciary or one of several co-fiduciaries.

Section III In lieu of a bond, and upon the fiduciary's request, the Court may restrict transfer of all or part of the estate or guardianship liquid assets by placing those assets in a federally insured financial institution or in a court approved investment with the following restriction placed on the face of the account or in the investment document:

**“NO PRINCIPAL OR INTEREST SHALL BE WITHDRAWN WITHOUT
WRITTEN ORDER OF _____ COURT OF
_____, INDIANA.”**

The fiduciary shall thereafter file with the Court, within ten (10) days of the order authorizing the creation of the account or investment, a certification by an officer of the institution at which the account or investment has been created, affirming that the account or investment is restricted as required by the Court order and is in compliance with this rule.

Section IV All petitions to open an estate or guardianship shall set forth the probable value of the personal property plus the estimated annual rents and profits to be derived from the property in the estate or guardianship.

Section V The name and address of the insurance agency providing the corporate surety shall be typed or printed on all corporate bonds in any estate or guardianship.

LR48-PR00-RULE 43 - INVENTORY

Section I An inventory shall be filed by the fiduciary in estates and guardianships as follows: Supervised estates, within sixty (60) days; guardianships, within ninety (90) days for permanent guardians and within thirty (30) days for temporary guardians. All times relate to the date of appointment of the fiduciary.

Section II In the event a partial inventory is filed, all subsequent inventories must contain a recapitulation of prior inventories.

Section III In the event that the personal representative should request that an inventory be sealed, the Court may, in its sole discretion, seal such inventory. If an inventory is sealed, it shall be maintained in the court reporter's evidence file in the Court in which such estate is filed.

LR48-PR00-RULE 44 - REAL ESTATE

Section I In all supervised estates and guardianships in which real estate is to be sold, if required by the Court, a written professional appraisal shall be filed with the Court at the time of filing the Petition for Sale, unless such appraisal was filed with the inventory. Such written appraisal shall include as a minimum the following elements:

- a. A brief description of the property interest being appraised, including the full and legal description thereof.
- b. Purpose or objective of the appraisal.
- c. Date for which fair market value is determined.
- d. Data and reasoning supporting the fair market value.
- e. Fair market value determined.
- f. Statement of assumptions and special or limiting conditions.
- g. Certification of disinterest in real estate.
- h. Signature of the appraiser.

Section II All such appraisals if required by the Court shall be made within one year of the date of the Petition for Sale.

Section III All deeds submitted to the Court for approval in either estate or guardianship proceedings shall be signed by the fiduciary and the signature notarized prior to its submission.

LR48-PR00-Rule 45 - SALE OF ASSETS

Section I In all supervised estates and guardianships, no Petition to Sell Personal Property shall be granted unless a written appraisal prepared by a person competent to appraise such property and setting forth the fair market value thereof, is filed with the Court at the time of the filing of the Petition to Sell, unless such appraisal was filed with the inventory. This rule shall not apply to personal property which is sold at public auction.

Section II All appraisals required by the Court shall be made within one year of the date of the Petition to Sell.

Section III No written appraisal shall be required for the sale of assets which are traded in a market and the value of which is readily ascertainable. Such assets include, but are not limited to, stocks, bonds, mutual funds, commodities, and precious metals.

LR48-PR00-RULE 46 - ACCOUNTING

Section I All social security or Medicare benefits received on behalf of an incapacitated person shall be included and accounted for in the guardianship accounting unless court approval has been previously granted to allow said funds to be paid directly to a residential or health care facility, or because of the amount of such funds, the Court finds that such funds can only be used by the guardian or designated person for the benefit of, or use by, such incapacitated person.

Section II In all supervised estate and guardianship accountings, a notation shall be placed by each expenditure indicating the reason for or nature of the expenditure unless the payee name indicates the nature of the expenditure.

Section III All court costs shall be paid and all claims satisfied and released before the hearing on the Final Account.

LR48-PR00-RULE 47 - FEES OF ATTORNEY AND FIDUCIARY

Section I No fees for fiduciaries or attorneys shall be paid out of any supervised estate or guardianship without prior written order of the Court.

Section II All orders for fees in estates shall provide that said fees are to be paid only after approval of the Final Accounting except as otherwise ordered by the Court.

Section III A guardian or guardian's attorney may petition for fees at the time of filing an inventory, or, as otherwise provided by the Court.

Section IV No attorney or fiduciary fees will be determined and authorized for payment by the Court in any unsupervised administration of a decedent's estate.

Section V Where contracts for legal services have been entered into prior or subsequent to the opening of an estate or guardianship, the awarding of such fees shall require the approval of the Court.

Section VI All petitions for fees for the attorney and/or fiduciary shall conform to the fee guidelines set forth by this Court.

Section VII Unjustified delays in carrying out duties by the fiduciary and/or attorney may result in a reduction of fees.

Section VIII Attorney fees for representing a minor in settlement of a claim for personal injuries are subject to court approval. If the entire attorney fee is to be paid at the same time a structured settlement is approved, the amount of the fee must be based on the present value of the settlement.

Section IX MAXIMUM FEE GUIDELINES FOR SUPERVISED ESTATES

Principles Applicable to Fee Determinations

Although fee guidelines have been promulgated by the court for probate matters, it is important that your attention be directed to certain criteria as they pertain to these Guidelines.

The existence of the Guidelines does not assure that all fees allowed by the court will adhere to them. Other factors must be considered by the attorney and his, or her, client. The same factors will also be considered by the court in making its final determination.

The criteria to be considered includes the following:

- A. The time and labor required, the novelty, complexity, or difficulty of the questions involved, the skill required to perform the services properly, and shall include a determination as to how much of the attorney's time was devoted to legal matters and how much of it was devoted to ministerial functions;
- B. The nature and extent of the responsibilities assumed by the attorney and the results obtained, and shall include the considerations of the identity of the personal representative and the character of the probate and non-probate transferred assets;
- C. The sufficiency of assets properly available to pay for legal services, and shall consider whether the attorney's duties are expanded by the existence of non-probate assets because of their inclusion for tax purposes, both federal and state;

- D. The timeliness with which the necessary services are performed consistent with statutory requirements, the Court's rules of procedure and the Rules of Professional Conduct applicable thereto.

In considering all of these factors, attorneys are urged to discuss their fee and that of the personal representative at the time they are retained in all probate matters.

PERSONAL REPRESENTATIVE FEES

I. PROFESSIONAL

Their applicable reasonable rate shall be reviewed in light of all prevailing circumstances.

II. NON-PROFESSIONAL

An amount not in excess of one-half (1/2) of the attorney's fees.

III. ATTORNEY

When the attorney also serves as the personal representative, an additional amount not in excess of one-half (1/2) of the attorney fee may be allowed.

LR48-PR00-RULE 48 - UNSUPERVISED ADMINISTRATION

Section I All court costs shall be paid and all claims satisfied and released on or before the date of the filing of the Closing Statement.

Section II An order approving the Closing Statement shall be required.

LR48-PR00-RULE 49 - GUARDIANSHIPS

Section I In all guardianship matters seeking to declare an adult incapacitated for any reason, the incapacitated person shall be present at the hearing or sufficient evidence shall be presented showing that the incapacitated person is unable to appear. The Court may at any time appoint a guardian ad litem to investigate and protect the best interest of the incapacitated person.

Section II In all guardianship matters seeking to declare an adult incapacitated for any reason, a Physician's Report by the doctor treating the alleged incapacitated person or such additional evidence as the Court shall require, shall be presented to the Court at the time the petition is filed or on the hearing date. No determination will be made without a supporting medical report or testimony.

Section III In every petition for the appointment of a guardian of the person of a minor child, the following information shall be given, in addition to the statutory requirement, if known to the petitioner:

- a. The places where the child has lived within the past two years and the names and present addresses of persons with whom the child has lived during that period.
- b. General information concerning school, health, etc.
- c. Whether any other litigation is pending concerning the custody of the child in this or any other state.
- d. Whether any person not a party to the guardianship proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child.

Section IV Nothing herein shall be deemed as amending, superseding or altering the Probate Rules and Regulations promulgated by the Veteran's Administration of the United States of America, and every fiduciary and attorney shall comply with same, if applicable.

LR48-PR00-RULE 50 - MINORS' SETTLEMENTS

Section I This rule shall govern requests for approval of settlements for minors (pursuant to IC 29-3-9 and/or IC 29-3-4) and guardianships for minors, if such settlements are approved by the Court.

Section II A hearing shall be set at the request of counsel in which testimony or evidence is presented so as to fully and independently satisfy the Court that the requested settlement fully protects the minor's rights and interests. The Court may at any time appoint a guardian ad litem to protect the best interest of the minor and investigate such settlement.

Section III Once a guardian is appointed, then such guardian shall post bond, unless, in lieu of a bond, a fiduciary places all funds or assets in a restricted account at a federally-insured financial institution or in a court approved investment, designating that no principle or interest may be withdrawn without a written order of the Court, and with the following restriction placed on the face of the account or in the investment document:

**“NO PRINCIPAL OR INTEREST SHALL BE WITHDRAWN WITHOUT
WRITTEN ORDER OF _____ COURT OF
_____, INDIANA.”**

The fiduciary shall file the following with the Court:

- a. Prior to issuance of letters, the fiduciary's attorney shall execute an Attorney's Undertaking for such assets.

Section IV No surety bond or restricted account is required where a corporate fiduciary serves as a guardian of the estate.

LR48-PR00-Rule 51 - WRONGFUL DEATH ESTATES

Section I All proposed wrongful death settlements must be approved by the Court, whether the estate is supervised, unsupervised, or a special administration for the sole purpose of prosecuting the wrongful death claim.

LR48-PR00-Rule 52 – Magistrate

Section I The Madison County Magistrate shall have and exercise all powers and authority in probate matters which are granted to Probate Commissioners by State Statute, Local Rule, or, as ordered by a regular Judge.

EXHIBIT A

GUIDELINES FOR SUBMITTING COURT PLEADINGS

THESE COPIES ARE REQUIRED FOR THE COURT AND CLERKS OFFICE ONLY.
IF ANY COPIES ARE TO BE RETURNED TO THE ATTORNEY OR ATTORNEYS OFFICE
THEN ADDITIONAL COPIES ARE TO BE SUBMITTED.

ADOPTIONS:

1. MEDICAL HISTORY (FOR EACH CHILD)
ORIGINAL + 2
2. THREE PART ADOPTION FORM (PER EACH CHILD)
3. PETITION (SEND ADDITIONAL COPIES IF ATTORNEY NEEDS ANY BACK)
ORIGINAL + 3
4. CONSENTS (SEND ADDITIONAL COPIES IF ATTORNEY NEEDS ANY BACK)
ORIGINAL + 3
5. APPEARANCE (SEND ADDITIONAL COPIES IF ATTORNEY NEEDS ANY BACK)
ORIGINAL + 3
6. DECREE OF ADOPTION (SEND ADDITIONAL COPIES IF ATTORNEY NEEDS ANY
BACK)
ORIGINAL + 3

CITATION:

1. CITATION ONLY TO BE SERVED PERSONAL SERVICE
ORIGINAL + 3
2. CITATION ONLY TO BE SENT CERTIFIED MAIL
ORIGINAL + 2- GREEN CARD AND
ENVELOPE ARE TO BE PROVIDED BY
THE ATTORNEYS OFFICE.

COMPLAINT:

1. PERSONAL SERVICE (PER DEFENDANT)
ORIGINAL + 2
2. CERTIFIED MAIL (PER DEFENDANT)
ORIGINAL + 1
GREEN CARD AND ENVELOPE TO BE

PROVIDED BY THE ATTORNEYS OFFICE

DECREES:

1. ORIGINAL + 1 (FOR ORDER BOOK AND THE FILE)
IF DISTRIBUTION IS TO BE MADE BY THE CLERK TO THE
PARTIES BY REGULAR MAIL 2 ADDITIONAL COPIES AND
ADDRESSED ENVELOPES ARE TO BE PROVIDED BY THE
ATTORNEYS OFFICE. (IF ATTORNEY NEEDS COPY SEND EXTRA)

*THESE COPIES ARE REQUIRED FOR THE ~~COURTS~~ COURT AND CLERKS OFFICE ONLY.
IF ANY COPIES ARE TO BE RETURNED TO THE ATTORNEY OR ATTORNEYS OFFICE
THEN ADDITIONAL COPIES ARE TO BE SUBMITTED.*

FINAL ORDERS:

1. ORIGINAL + 4

INCOME WITHHOLDING OR WAGE ASSIGNMENTS:

1. ORIGINAL + 4

MENTAL HEALTH PETITIONS:

1. ORIGINAL + 4

NOTICE OF HEARING:

1. ORIGINAL + 3 (FOR EACH DEFENDANT) PERSONAL SERVICE
2. ORIGINAL + 2 (FOR EACH DEFENDANT) CERTIFIED MAIL
GREEN CARD AND ENVELOPES TO BE PROVIDED.

ORDER TO APPEAR:

1. ORIGINAL + 4 (FOR EACH DEFENDANT) PERSONAL SERVICE
2. ORIGINAL + 2 (FOR EACH DEFENDANT) CERTIFIED MAIL
GREEN CARD AND ENVELOPES TO BE PROVIDED.

PETITION TO MODIFY:

1. ORIGINAL + 2

PETITION FOR DISSOLUTION:

1. ORIGINAL + 2

QDRO:

1. ORIGINAL + 3 GREEN CARD AND ENVELOPE (PER ONE EMPLOYER)

*THESE COPIES ARE REQUIRED FOR THE ~~COURTS~~ COURT AND CLERKS OFFICE ONLY.
IF ANY COPIES ARE TO BE RETURNED TO THE ATTORNEY OR ATTORNEYS OFFICE
THEN ADDITIONAL COPIES ARE TO BE SUBMITTED.*

MOTION FOR SUMMARY JUDGMENT:

1. ORIGINAL + 3 (PER DEFENDANT OR GARNISHMENT DEFENDANT)
IF YOU HAVE A SUMMONS, CITATION, SUBPOENA, NOTICE OF HEARING,
OR AN ORDER TO APPEAR, AND OTHER PAPERWORK THAT NEEDS TO GO
WITH IT. (EX: PETITION, MOTIONS, ETC.) AND IT IS TO GO PERSONAL
SERVICE. WE NEED 4 OF THE SUMMONS, ETC., AND 3 OF EVERYTHING
ELSE PER PERSON. IF ITS TO GO CERTIFIED MAIL, THE ATTORNEY
NEEDS TO PROVIDE THE GREEN CARD AND ENVELOPE PER PERSON.

ORDERS AND JUDGMENTS:

1. ORIGINAL + 4. IF REGULAR MAIL, PROVIDE ENVELOPE. IF CERTIFIED MAIL,
PROVIDE GREEN CARD AND ENVELOPE. (PER PERSON)

PROCEEDINGS SUPPLEMENTAL:

1. ORIGINAL + 4 PER DEFENDANT

ORDERS:

IF TO GO CERTIFIED MAIL, PROVIDE GREEN CARD AND ENVELOPE.
ORIGINAL + 4 PER DEFENDANT
OPE.

PROPERTY SETTLEMENT:

1. ORIGINAL + 1
(IF THIS NEEDS SENT TO EITHER PARTY YOU WILL NEED TO PROVIDE
EXTRA COPIES. REGULAR MAIL 1 COPY PER DEFENDANT AND
ENVELOPE. CERTIFIED MAIL 2 PER DEFENDANT, GREEN CARD
AND ENVELOPE.)

RESTRAINING ORDERS
AND PROTECTIVE ORDERS:

1. WITH ALL PROTECTIVE ORDERS AND RESTRAINING ORDERS
(TEMPORARY OR PERMANENT) NEED 3 COVER SHEETS TO
GO TO THE POLICE DEPARTMENTS.
2. ORIGINAL + 9 (THIS INCLUDES 1 COPY TO BE GIVEN TO BOTH ATTORNEYS)

THESE COPIES ARE REQUIRED FOR THE COURTS AND CLERKS OFFICE ONLY.
IF ANY COPIES ARE TO BE RETURNED TO THE ATTORNEY OR ATTORNEYS OFFICE
THEN ADDITIONAL COPIES ARE TO BE SUBMITTED.

RECIPROCAL SUPPORT:

1. ORIGINAL + 5

SUBPOENAS:

1. ORIGINAL + 3 (PERSONAL SERVICE)
2. ORIGINAL + 3 (CERTIFIED MAIL, GREEN CARD AND ENVELOPE)

SUMMONS:

1. ORIGINAL + 3 (PERSONAL SERVICE)
2. ORIGINAL + 2 (CERTIFIED MAIL, GREEN CARD AND ENVELOPE)

TORT CLAIM:

1. ORIGINAL + 2 PER DEFENDANT (PERSONAL SERVICE)
2. ORIGINAL + 1 PER DEFENDANT (CERTIFIED MAIL, GREEN CARD AND ENVELOPE)

PATERNITY ORDERS:

1. ORIGINAL + 6
2. VOLUNTARY PETITION-ORIGINAL ONLY
3. INVOLUNTARY PETITION-ORIGINAL + 2
4. SUMMONS-ORIGINAL + 2

*THESE COPIES ARE REQUIRED FOR THE ~~COURTS~~ COURT AND CLERKS OFFICE ONLY.
IF ANY COPIES ARE TO BE RETURNED TO THE ATTORNEY OR ATTORNEYS OFFICE
THEN ADDITIONAL COPIES ARE TO BE SUBMITTED.*

PROBATE

ESTATES:

1. ORIGINALS OF EVERYTHING
TWO ORDERS FOR OFFICE + COPIES OF ORDERS FOR FILES
2. NOTICES TO HEIRS WITH ENVELOPES
NEED ORIGINAL PETITIONER, OATH, WAIVERS, NOTICES,
CERTIFICATE OF CLERK, ETC.
SUBMIT TWO ADDITIONAL COPIES OF ORDER (FOR FILE)
SUBMIT NOTICE (FOR THE NEWSPAPER)

GUARDIANSHIP & TRUSTS:

1. ORIGINALS OF EVERYTHING
TWO ORDERS FOR OFFICE + COPIES OF ORDERS FOR FILES
2. PERSONAL SERVICE
TWO COPIES
3. NEED ORIGINAL PETITION, CONSENTS, OATH, WAIVER, ETC.
SUBMIT TWO ADDITIONAL COPIES OF ORDER (FOR FILE)
4. CERTIFIED MAIL AND NOTICE OF HEARING
TWO COPIES + GREEN CARD ADDRESSED

INHERITANCE TAX SCHEDULE:

1. ORIGINAL + 2

INVENTORY:

1. ORIGINAL ONLY

FINAL ACCOUNTING:

1. ORIGINAL ONLY
2. NEED ORIGINAL PETITION, WAIVERS, CERTIFICATE OF CLERK, ETC.
SUBMIT TWO ADDITIONAL COPIES OF ORDER (FOR FILE).
NOTICES TO HEIRS WITH ENVELOPES

CLAIMS:

1. ORIGINAL + 2
ONE FILE MARKED COPY WILL BE RETURNED.
ONE COPY WILL BE SENT TO ATTORNEY OF RECORD, AND
ORIGINAL WILL BE KEPT ON FILE.

COMMENTS:

PLEASE USE SHORT FORMS. IF YOU DO NOT HAVE THESE FORMS, OBTAIN THEM FROM THE PROBATE OFFICE. PETITIONS AND ORDERS SHALL BE SUBMITTED ON SEPARATE PAGES.